

U.S. District Court – District of Colorado
District of Colorado (Denver)
CIVIL DOCKET FOR CASE #: 1:19-cv-00132-WJM-NYW

WildEarth Guardians v. Office of Surface Mining Reclamation
and Enforcement et al
Assigned to: Judge William J. Martinez
Referred to: Magistrate Judge Nina Y. Wang
Cause: 05:552 Freedom of Information Act

Date Filed: 01/15/2019
Jury Demand: None
Nature of Suit: 895 Freedom of
Information Act of 1974
Jurisdiction: U.S. Government Defendant

Plaintiff**WildEarth Guardians**

represented by **Stuart N. Wilcox**
Stuart Wilcox LLC
2340 Dayton Street
Aurora, CO 80010
720-331-0385
Email: stuart.wilcox5@gmail.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Travis Earl Stills
Travis Stills Attorney at Law
Energy & Conservation Law
1911 Main Avenue
Suite 238
Durango, CO 81301
970-375-9231
Fax: 970-382-0316
Email: stills@frontier.net
ATTORNEY TO BE NOTICED

V.

Defendant

**Office of Surface Mining Reclamation
and Enforcement**
*a federal agency within the
other*
US Department of the Interior

represented by **Chandra Kurien Aitchison**
U.S. Attorney's Office-Denver
1801 California Street
Suite 1600
Denver, CO 80202
303-454-0301
Email: chandra.aitchison@usdoj.gov
ATTORNEY TO BE NOTICED

Defendant

US Department of the Interior
a federal agency

represented by **Chandra Kurien Aitchison**
(See above for address)
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
01/15/2019	<u>1</u>	COMPLAINT against Department of the Interior, The, Office of Surface Mining Reclamation and Enforcement (Filing fee \$ 400,Receipt Number 1082-6485481)Attorney Travis Earl Stills added to party WildEarth Guardians(pty:pla), filed by WildEarth Guardians. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Civil Cover Sheet, # <u>3</u> Exhibit Corporate Disclosure, # <u>4</u> Summons, # <u>5</u> Summons, # <u>6</u> Summons)(Stills, Travis) (Entered: 01/15/2019)
01/15/2019	2	Case assigned to Magistrate Judge Nina Y. Wang. Text Only Entry. (rvill,) (Entered: 01/15/2019)

01/15/2019	<u>3</u>	SUMMONS issued by Clerk. (Attachments: # <u>1</u> Summons, # <u>2</u> Summons, # <u>3</u> Magistrate Judge Consent Form) (rvill,) (Entered: 01/15/2019)
01/17/2019	<u>4</u>	SUMMONS REQUEST as to US Attorney General re <u>1</u> Complaint, by Plaintiff WildEarth Guardians. (Stills, Travis) (Entered: 01/17/2019)
01/18/2019	<u>5</u>	SUMMONS issued by Clerk to Matthew G. Whitaker, Acting U.S. Attorney General. (Attachments: # <u>1</u> Magistrate Judge Consent Form) (nmarb,) (Entered: 01/18/2019)
01/23/2019	<u>6</u>	MINUTE ORDER : A Status Conference is SET for 3/4/2019 10:30 AM in Courtroom A 502 before Magistrate Judge Nina Y. Wang. By Magistrate Judge Nina Y. Wang on 1.23.2019. Text Only Entry (nywlc1,) (Entered: 01/23/2019)
01/29/2019	<u>7</u>	SUMMONS Returned Executed upon <i>Freedom of Information Act</i> defendant(s) Office of Surface Mining Reclamation and Enforcement served on 1/18/2019, answer due 3/19/2019; US Department of the Interior served on 1/18/2019, answer due 3/19/2019. (Stills, Travis) (Entered: 01/29/2019)
02/21/2019	<u>8</u>	NOTICE of Entry of Appearance by Chandra Kurien Aitchison on behalf of Office of Surface Mining Reclamation and Enforcement, US Department of the Interior Attorney Chandra Kurien Aitchison added to party Office of Surface Mining Reclamation and Enforcement(pty:dft), Attorney Chandra Kurien Aitchison added to party US Department of the Interior(pty:dft) (Aitchison, Chandra) (Entered: 02/21/2019)
02/21/2019	<u>9</u>	STRICKEN MOTION to Dismiss <i>Claim One In Part and Claims Two and Three</i> by Defendants Office of Surface Mining Reclamation and Enforcement, US Department of the Interior. (Aitchison, Chandra) Modified on 3/1/2019 to strike pursuant to 18 Order (angar,). (Entered: 02/21/2019)
02/21/2019	<u>10</u>	MINUTE ORDER : This matter comes before the court sua sponte. The deadline to submit the Consent/Non-Consent Form is set for on or before Thursday, February 28, 2019 . By Magistrate Judge Nina Y. Wang on 2.21.2019. Text Only Entry (nywlc1,) (Entered: 02/21/2019)
02/27/2019	<u>11</u>	CONSENT to Jurisdiction of Magistrate Judge by Plaintiff WildEarth Guardians All parties do not consent.. (Stills, Travis) (Entered: 02/27/2019)
02/27/2019	<u>12</u>	Unopposed MOTION for Leave to Appear <i>Telephonically</i> by Plaintiff WildEarth Guardians. (Stills, Travis) (Entered: 02/27/2019)
02/27/2019	<u>13</u>	CASE REASSIGNED pursuant to <u>11</u> Consent to Jurisdiction of Magistrate Judge. All parties do not consent. This case is randomly reassigned to Judge Robert E. Blackburn. All future pleadings should be designated as 19-cv-00132-REB. (Text Only Entry) (nmarb,) (Entered: 02/27/2019)
02/27/2019	<u>14</u>	MEMORANDUM RETURNING CASE by Senior Judge Blackburn. This case is randomly reassigned to Judge William J. Martinez. All future pleadings should be designated as 19-cv-00132-WJM. (athom,) (Entered: 02/27/2019)
03/01/2019	<u>15</u>	ORDER REFERRING CASE to Magistrate Judge Nina Y. Wang. Magistrate Judge Wang, or such other Magistrate Judge who may in the future be reassigned this case, is designated to conduct NDISPO proceedings pursuant to 28 U.S.C. § 636(b)(1)(A) and (B) and Fed.R.Civ.P. 72(a) and (b). Court sponsored alternative dispute resolution is governed by D.C.COLO.LCivR 16.6. On the recommendation or informal request of the Magistrate Judge or on the request of the parties by motion, the court may direct the parties to engage in an early neutral evaluation, a settlement conference, or another alternative dispute resolution proceeding. SO ORDERED by Judge William J. Martinez on 3/1/2019. Text Only Entry (wjmssec,) (Entered: 03/01/2019)
03/01/2019	<u>16</u>	ORDER: Counsel for the parties and all counsel who may later enter an appearance shall review and familiarize themselves with the undersigned's Revised Practice Standards (as most recently revised effective December 1, 2018 and as they may be amended from time to time), which may be downloaded here. SO ORDERED by Judge William J. Martinez on 3/ 1/2019. Text Only Entry (wjmssec,) (Entered: 03/01/2019)
03/01/2019	<u>17</u>	MEMORANDUM regarding <u>12</u> Unopposed MOTION for Leave to Appear <i>Telephonically</i> filed by WildEarth Guardians. Motions referred to Magistrate Judge Nina Y. Wang by Judge William J. Martinez on 3/1/2019. Text Only Entry (wjmssec,)

		(Entered: 03/01/2019)
03/01/2019	18	ORDER: This matter is before the Court on Defendants' Motion to Dismiss Claim One, in Part, and Claims Two and Three <u>2</u> . Notwithstanding the fact that Defendants filed their Motion before the case had been drawn to the undersigned, the Motion is hereby STRICKEN for non-compliance with the undersigned's Revised Practice Standard III.D.1. This Practice Standard requires counsel to confer prior to filing a motion pursuant to Rule 12(b)(6), in order to discuss whether the alleged deficiency in the operative complaint can be cured by amendment, and to exercise their best efforts to stipulate to such amendment. This Order is without prejudice to any parties filing appropriate motions on similar grounds, in compliance with all applicable federal rules and statutes, and the undersigned's Revised Practice Standards. SO ORDERED by Judge William J. Martinez on 3/1/2019. Text Only Entry (wjmssec,) (Entered: 03/01/2019)
03/01/2019	19	ORDER: The Status Conference set for Monday, March 4 is RESET for Wednesday, March 6 at 11:30 a.m. and the court construes the pending Motion to Appear Telephonically as construed towards this new date and GRANTS it as such. Mr. Stills is to call 303.335.2600 at the designated time to participate. By Magistrate Judge Nina Y. Wang on 3.1.2019. Text Only Entry (nywlc1,) (Entered: 03/01/2019)
03/04/2019	<u>20</u>	Unopposed MOTION to Reset <i>Status Conference</i> by Defendants Office of Surface Mining Reclamation and Enforcement, US Department of the Interior. (Aitchison, Chandra) (Entered: 03/04/2019)
03/05/2019	21	MEMORANDUM regarding <u>20</u> Unopposed MOTION to Reset <i>Status Conference</i> filed by US Department of the Interior, Office of Surface Mining Reclamation and Enforcement. Motions referred to Magistrate Judge Nina Y. Wang by Judge William J. Martinez on 3/5/2019. Text Only Entry (wjmssec,) (Entered: 03/05/2019)
03/05/2019	22	ORDER granting <u>20</u> Motion to Reset. Status Conference RESET for 3/7/2019 11:30 AM in Courtroom A 502 before Magistrate Judge Nina Y. Wang. The court once again construes the Motion to Appear Telephonically as construed towards this new date and GRANTS it as such. Mr. Stills is to call 303.335.2600 at the designated time to participate. By Magistrate Judge Nina Y. Wang on 3.5.2019. Text Only Entry (nywlc1,) (Entered: 03/05/2019)
03/07/2019	<u>23</u>	COURTROOM MINUTES/MINUTE ORDER for Status Conference held on 3/7/2019 before Magistrate Judge Nina Y. Wang. Defendant shall have up to and including 4/17/2019, to refile dispositive motions pursuant to the Practice Standards of Judge William Martinez. The first production of documents shall be made by Defendant on or before 4/1/2019. The second production of documents shall be made on or before 5/30/2019. A further Status Conference is set for 6/27/2019 10:00 AM in Courtroom A 502 before Magistrate Judge Nina Y. Wang. FTR: Courtroom A-502. (bwilk,) (Entered: 03/07/2019)
03/19/2019	<u>24</u>	NOTICE of Change of Address/Contact Information for <i>Stuart Wilcox</i> by Stuart Nicholas Wilcox (Wilcox, Stuart) (Entered: 03/19/2019)
04/12/2019	<u>25</u>	Unopposed MOTION for Extension of Time to File Answer or Otherwise Respond re <u>1</u> Complaint, and <i>Vacate Final Pretrial Conference while Parties Discuss Settlement</i> by Defendants Office of Surface Mining Reclamation and Enforcement, US Department of the Interior. (Aitchison, Chandra) (Entered: 04/12/2019)
04/12/2019	26	MEMORANDUM regarding <u>25</u> Unopposed MOTION for Extension of Time to File Answer or Otherwise Respond re <u>1</u> Complaint, and <i>Vacate Final Pretrial Conference while Parties Discuss Settlement</i> filed by US Department of the Interior, Office of Surface Mining Reclamation and Enforcement. Motions referred to Magistrate Judge Nina Y. Wang by Judge William J. Martinez on 4/12/2019. Text Only Entry (wjmssec,) (Entered: 04/12/2019)
04/15/2019	27	ORDER granting in part <u>25</u> Motion for Extension of Time to Answer or Otherwise Respond Defendants' answer deadline extended to 5/8/2019. The motion is denied as moot to the extent it seeks to vacate the Final Pretrial Conference set for 4/17/2019 as there is no such conference scheduled in this case. By Magistrate Judge Nina Y. Wang on 4.15.2019. Text Only Entry (nywlc1,) (Entered: 04/15/2019)

05/07/2019	<u>28</u>	Unopposed MOTION for Extension of Time to File Answer or Otherwise Respond re <u>1</u> Complaint, <i>while Parties Discuss Settlement</i> by Defendants Office of Surface Mining Reclamation and Enforcement, US Department of the Interior. (Aitchison, Chandra) (Entered: 05/07/2019)
05/07/2019	29	MEMORANDUM regarding <u>28</u> Unopposed MOTION for Extension of Time to File Answer or Otherwise Respond re <u>1</u> Complaint, <i>while Parties Discuss Settlement</i> filed by US Department of the Interior, Office of Surface Mining Reclamation and Enforcement. Motions referred to Magistrate Judge Nina Y. Wang by Judge William J. Martinez on 5/7/2019. Text Only Entry (wjmssec,) (Entered: 05/07/2019)
05/07/2019	30	ORDER granting <u>28</u> Motion for Extension of Time to Answer or Otherwise Respond. Defendants' answer or response is due by 6/7/2019. By Magistrate Judge Nina Y. Wang on 5/7/2019. Text Only Entry(nywlc2,) (Entered: 05/07/2019)
06/06/2019	<u>31</u>	Unopposed MOTION for Leave to <i>Amend Complaint</i> <u>1</u> Complaint, by Plaintiff WildEarth Guardians. (Attachments: # <u>1</u> Proposed Document First Amended Complaint, # <u>2</u> Exhibit Ex 1 – Correspondence Between Plaintiff and Defendant FOIA Officer)(Wilcox, Stuart) (Entered: 06/06/2019)
06/07/2019	32	MEMORANDUM regarding <u>31</u> Unopposed MOTION for Leave to <i>Amend Complaint</i> <u>1</u> Complaint, filed by WildEarth Guardians. Motions referred to Magistrate Judge Nina Y. Wang by Judge William J. Martinez on 6/7/2019. Text Only Entry (wjmssec,) (Entered: 06/07/2019)
06/07/2019	33	MEMORANDUM regarding <u>31</u> Unopposed MOTION for Leave to <i>Amend Complaint</i> <u>1</u> Complaint, filed by WildEarth Guardians. Motions referred to Magistrate Judge Nina Y. Wang by Judge William J. Martinez on 6/7/2019. Text Only Entry (wjmssec,) (Entered: 06/07/2019)
06/07/2019	34	ORDER construing <u>31</u> Motion for Leave to File Amended Complaint as an amendment by consent pursuant to Fed. R. Civ. P. 15 and Local Rule 15.1. The Clerk of the Court shall docket the attached proposed amended complaint [#31–1] as a separate docket entry. The deadline to refile the defense motion to dismiss is vacated. The Status Conference is RESET for 7/2/2019 10:30 AM in Courtroom A 502 before Magistrate Judge Nina Y. Wang. A proposed briefing schedule is due on or before 6/25/2019. By Magistrate Judge Nina Y. Wang on 6.7.2019. Text Only Entry(nywlc1,) (Entered: 06/07/2019)
06/07/2019	<u>35</u>	AMENDED COMPLAINT against Office of Surface Mining Reclamation and Enforcement, US Department of the Interior, filed by WildEarth Guardians, pursuant to 34 Order. (nmarb,) (Entered: 06/10/2019)
06/20/2019	<u>36</u>	ANSWER to <u>35</u> Amended Complaint by Office of Surface Mining Reclamation and Enforcement, US Department of the Interior.(Aitchison, Chandra) (Entered: 06/20/2019)
06/25/2019	<u>37</u>	Proposed Scheduling Order by Defendants Office of Surface Mining Reclamation and Enforcement, US Department of the Interior. (Aitchison, Chandra) (Entered: 06/25/2019)
06/26/2019	<u>38</u>	Unopposed MOTION for Leave to Appear <i>Telephonically</i> by Plaintiff WildEarth Guardians. (Wilcox, Stuart) (Entered: 06/26/2019)
06/26/2019	39	MEMORANDUM regarding <u>38</u> Unopposed MOTION for Leave to Appear <i>Telephonically</i> filed by WildEarth Guardians. Motions referred to Magistrate Judge Nina Y. Wang by Judge William J. Martinez on 6/26/2019. Text Only Entry (wjmssec,) (Entered: 06/26/2019)
06/28/2019	40	ORDER granting <u>38</u> Motion for Leave to Appear Telephonically. Plaintiff's counsel may appear by phone at the 7/2 Status Conference by contacting chambers on one line at 303.335.2600 at the designated time. By Magistrate Judge Nina Y. Wang on 6.28.2019. Text Only Entry(nywlc1,) (Entered: 06/28/2019)
07/02/2019	<u>41</u>	COURTROOM MINUTES/MINUTE ORDER for Status Conference held on 7/2/2019 before Magistrate Judge Nina Y. Wang. Deadline for Defendants' Motion for Summary Judgment is 10/1/2019. Deadline for Plaintiffs Response Brief/Cross Motion for Summary Judgment is 10/28/2019. FTR: Courtroom A–502. (bwilk,) (Entered: 07/02/2019)

		07/02/2019)
09/10/2019	<u>42</u>	Unopposed MOTION for Extension of Time to <i>File Summary Judgment Motions While Parties Discuss Settlement</i> by Defendants Office of Surface Mining Reclamation and Enforcement, US Department of the Interior. (Aitchison, Chandra) (Entered: 09/10/2019)
09/10/2019	43	MEMORANDUM regarding <u>42</u> Unopposed MOTION for Extension of Time to <i>File Summary Judgment Motions While Parties Discuss Settlement</i> filed by US Department of the Interior, Office of Surface Mining Reclamation and Enforcement. Motions referred to Magistrate Judge Nina Y. Wang by Judge William J. Martinez on 9/10/2019. Text Only Entry (wjmssec,) (Entered: 09/10/2019)
09/10/2019	44	ORDER granting <u>42</u> Motion for Extension of Time to File Dispositive Motions due by 10/31/2019 by Magistrate Judge Nina Y. Wang on 9/10/2019. Text Only Entry(nywlc1,) (Entered: 09/10/2019)
10/23/2019	<u>45</u>	Joint MOTION for Extension of Time to <i>FILE SUMMARY JUDGMENT MOTIONS</i> by Defendants Office of Surface Mining Reclamation and Enforcement, US Department of the Interior. (Aitchison, Chandra) (Entered: 10/23/2019)
10/23/2019	46	MEMORANDUM regarding <u>45</u> Joint MOTION for Extension of Time to <i>FILE SUMMARY JUDGMENT MOTIONS</i> filed by US Department of the Interior, Office of Surface Mining Reclamation and Enforcement. Motions referred to Magistrate Judge Nina Y. Wang by Judge William J. Martinez on 10/23/2019. Text Only Entry (wjmssec,) (Entered: 10/23/2019)
10/23/2019	47	ORDER granting <u>45</u> Motion for Extension of Time to File by Magistrate Judge Nina Y. Wang on 10/23/2019. Dispositive Motions due by 12/2/2019. Text Only Entry(nywlc1,) (Entered: 10/23/2019)
11/27/2019	<u>48</u>	Joint MOTION to Vacate 47 Order on Motion for Extension of Time to File <i>and Notice of Settlement Agreement</i> by Plaintiff WildEarth Guardians. (Attachments: # <u>1</u> Exhibit)(Stills, Travis) (Entered: 11/27/2019)
12/02/2019	49	MEMORANDUM regarding <u>48</u> Joint MOTION to Vacate 47 Order on Motion for Extension of Time to File <i>and Notice of Settlement Agreement</i> filed by WildEarth Guardians. Motions referred to Magistrate Judge Nina Y. Wang by Judge William J. Martinez on 12/2/2019. Text Only Entry (wjmssec,) (Entered: 12/02/2019)
12/02/2019	50	ORDER granting <u>48</u> Motion to Vacate by Magistrate Judge Nina Y. Wang on 12/2/2019. The Dispositive Motions deadline is VACATED. Dismissal Papers due by 12/23/2019. Text Only Entry(nywlc1,) (Entered: 12/02/2019)